

## 18.120 RELEASE OF INFORMATION AND PUBLIC RECORDS

### ***Reference:***

Procedure 12.225 - Vehicular Crash Reporting  
 Procedure 12.700 - Search Warrants/Consent to Search  
 Procedure 12.900 - Processing Juvenile Offenders  
 State v. Keller, 85 Ohio St.3d 279  
 Kallstrom v. City of Columbus, 136 F.3d 1055  
 State ex rel. Plain Dealer Publishing Company v. Cleveland, 106 Ohio St. 3d 70  
 State ex rel. Dispatch Printing Company v. Johnson, 106 Ohio St.3d 160  
 Ohio Revised Code Section 149.43, Availability of Public Records

### ***Definitions:***

#### **Infrastructure Record –**

- Any record which discloses the configuration of critical systems, including, but not limited to, communication, computer, electrical, mechanical, ventilation, water, and plumbing systems.
- Any record which discloses security codes used by the Department, as well as records which reveal the infrastructure or structural configuration of any Department building. A simple floor plan limited to showing the spatial relationship of components of the building is not protected from disclosure.

#### **Security Record –**

- A record containing information used for protecting or maintaining the security of the Department against attack, interference, or sabotage;
- A record prepared by the Department to prevent, mitigate, or respond to acts of terrorism, including any of the following:
  - Vulnerability assessments or response plans intended to prevent, respond to, or mitigate acts of terrorism;
  - Communication codes for deployment plans of law enforcement or emergency response teams;
  - Specific intelligence information and specific investigative records shared by federal and international law enforcement agencies with state and local law enforcement agencies and public safety agencies; and
  - National security records classified under a federal executive order and not subject to public disclosure under federal law that are shared by federal agencies and other records related to national security briefings to assist state and local government with domestic preparedness.

**Information:**

The Public Information Office (PIO) aids Department personnel in releasing information to the media and prepares and distributes daily formal media releases about Police Department activities.

Refer media personnel requesting information concerning newsworthy events to PIO, Monday through Friday, 0800 to 1700 hours. After hours or if PIO is unavailable, the officer-in-charge (OIC) of the incident is responsible for handling basic media requests for information concerning the incident.

Personnel who have factual information from an offense report, auto accident report, traffic ticket, or other document, excluding Form 311 investigate reports, or as otherwise directed herein, will, upon request, release that information.

Computer printout information in NCIC, LEADS, CLEAR, or RCIC is not released except to criminal justice personnel for criminal justice purposes (as defined in the LEADS User Manual).

This procedure is a guide for police personnel to use when dealing with news media personnel to ensure cooperation and to control the access of news media representatives, including photographers, to the scene of major fires, natural disasters, other catastrophic events, and crime scenes.

Ohio Supreme Court decisions in the *Plain Dealer* and *Dispatch Printing Company* cases state public employees' home addresses and photographs are not considered public records under Ohio law and should not be released pursuant to a Public Records request. Court ordered requests for employees' personal information will be handled as outlined in Section I.

**Policy:**

The Police Chief is ultimately responsible for the maintenance and release of all Department records. The Records Section Director (RSD) has been granted the authority to maintain and release all Department Records on behalf of the Police Chief.

Records Section will take requests and release documents and records during normal business hours Monday through Friday, 0800 to 1700 hours excluding holidays. All requests for records made to the Police Department must be referred to Records Section for processing and release. Advise individuals requesting records they may make their request by appearing in person at Records Section, phoning or faxing Records Section, or via email. If appearing in person at Records Section or contacting Records Section via telephone, a written request is not necessary for release of records under the Public Records Act.

Refer written or electronic requests for records and documents occurring outside of normal business hours to Records Section on the next business day. When on-site records requests are made in person at a district/section/unit outside of normal business hours, request the individual complete a Form 29, Request for Public Records. If the individual completes the Request for Public Information form, fax the form to Records Section for review on the next business day.

All records requests via subpoena will be handled by Records Section. Records Section will notify Planning Section if the records released were the result of a civil case involving Department members. Planning Section will make the appropriate notifications to the Law Department. Refer requests for records by the City Solicitor and Prosecutor's Office concerning civil cases involving Department members to Planning Section.

The Cincinnati Police Department will readily cooperate with any request for release of information or to view information maintained by the Department in accordance with State or Federal law.

Records Section personnel will contact the Solicitor's Office whenever there is a question about whether to release a record.

***Procedure:***

**A. Requests for Release of Records and Reports**

1. Forward all written or electronic requests for records received to Records Section.
2. Records Section will release records and reports pursuant to ORC 149.43 within a reasonable time. As soon as the requested records are available, Records Section will immediately notify the requester to respond to the Records Section for pick-up and payment.
  - a. Records Section will investigate requests of records that may not be subject to release.
    - 1) Records Section will consult the Solicitor's Office if there is any question regarding release of requested information.
    - 2) If records being requested contain personal information that may be protected under the 14<sup>th</sup> Amendment rights to privacy and bodily integrity, Records Section will initiate the process outlined in Section H.
3. Records Section will contact districts/sections/units holding requested public records and obtain a copy or make arrangements for the viewing or collection of those records permitted to be released.
  - a. The affected district/section/unit will:
    - 1) Make the requested number of copies of the requested record.
    - 2) Redact all information as required in Sections D.1. and H.1.
    - 3) Send the requested number of copies of the requested records to Records Section for release.

- 4) If the records are requested pursuant to a subpoena, two copies of Form 30, Authentication of Records, must be completed, notarized, and submitted with two copies of the requested records.
    - 5) If necessary, prepare a Form 17 documenting why the records are missing or incomplete.
  - b. Records Section will notify the requesting party.
  - 4. Records Section will edit information that would endanger the life or safety of law enforcement personnel or any information that is confidential as defined by law.
  - 5. Records Section will collect fees before releasing public records. The charge will be 5 cents per page, except in the case of large requests that must be copied off-site, in which case Records Section may charge actual costs.
    - a. Records Section will bill for any public records released under the authority of PIO.
- B. On-Site Requests for Public Records
- 1. Individuals who respond to a district/section/unit, other than Records Section, during normal business hours and request the release of records will be referred to Records Section in person, by telephone, fax, or email.
  - 2. Individuals who respond to a district/section/unit after normal business hours and request the release of records will be requested to complete a Form 29, Request for Public Records. If the individual completes the Request for Public Information form, fax the form to Records Section for review on the next business day.
    - a. If an individual does not want to complete a Form 29, refer the individual to Records Section in person, by telephone, fax, or email the next business day.
  - 3. When responding to on-site requests for records for incidents that have just occurred, i.e. OH-1 from an auto accident, Department personnel should advise the requesting individual that it usually takes seven to ten business days for the requested document to arrive at Records Section.
    - a. Personnel who have factual information from an offense report, auto accident report, traffic ticket, or other document, excluding Form 311 investigate reports, or as otherwise directed herein, will, upon request, release that information.

4. Under exigent circumstances and after consultation with the lead investigator or investigation OIC, the Public Information Officer, a bureau commander, the Night Chief, or a district/section commander in the absence of PIO, may authorize the on-site release of records, including Police Communications Section tapes and dispatch logs, to the media.

C. Investigations - Arrests

1. From the initial stage of a criminal investigation until the completion of a trial or disposition without a trial, police personnel will direct all media requests for information to the supervisor responsible for the investigation. The supervisor or their designee, or PIO will release the information following the listed guidelines:
2. Before issuance of an arrest warrant or the filing of any complaint, information, or indictment, the identity of a suspect is confidential and will not be disclosed.
  - a. This does not apply to 911 tapes in which a potential suspect is named.
  - b. Do not expose persons in custody to the media for pictures or interviews.
3. From the time of arrest, issuance of an arrest warrant, or the filing of any complaint, information, or indictment of any person 18 years of age or older, the following information will be released upon request:
  - a. A factual statement of the accused's name, sex, race, age, residence, occupation, and family status.
  - b. The facts of arrest, the time and place of arrest, pursuit, and use of weapons.
  - c. Charges placed, including a brief description of the elements necessary to constitute the charge.
  - d. The identity of the investigating and arresting officers or agency and the duration of the investigation.
    - 1) Do not reveal the identity of covert officers.
    - 2) Do not reveal the home address or telephone number of any officer.

4. Prior to an official court disposition, Department personnel **will not** release or authorize the release without the Police Chief's approval, any statement concerning:
  - a. The prior criminal record, including arrests, indictments, or other charges of crime, character, or reputation of the accused.
  - b. The existence or contents of any confession, admission, or statement given by the accused, or the refusal or failure of the accused to make any statement.
  - c. The performance or results of any examination or test, or the accused's refusal to submit to such examination or test.
  - d. The identity, testimony, or credibility of prospective witnesses.
  - e. The possibility of a guilty plea to an offense charged.
  - f. An opinion about the accused's guilt, innocence, mental competency, or to the merits or evidence in the case.
5. Withhold critical information from the public if and until a danger to a victim no longer exists, e.g., a kidnapping victim not yet returned, in accordance with Kallstrom.
6. Releasing photographs:
  - a. Requests for photographs of arrested persons will be referred to the Hamilton County Sheriff's Office Warrant/Identification Unit.
  - b. Do not release photographs of victims or witnesses.

#### D. Reports

1. The responsibility to redact information contained in reports that are forwarded to Records Section for release pursuant to a public records request remains with the personnel forwarding the report, i.e., Personnel Section, Homicide Unit, Internal Investigations Section, etc. Records Section is only responsible for redacting information on records kept in Records Section. The following information **must** be redacted prior to the release:
  - a. Social Security numbers.
  - b. Uncharged suspect information.
  - c. The identity of a confidential source.
  - d. Information that would endanger the safety of law enforcement personnel, crime victims, witness or a confidential source.

- e. Confidential investigative techniques, procedures or work product.
    - 1). The narrative portion of a Form 301S, Incident Supplement, Form 311DV, Domestic Violence Investigation Report, or Form 526, Vice Activity Report, where the reporting officer states their theory of the case may be edited.
  - 2. The morning report summaries from the five police districts will be used on the Press Release Board located at Records Section.
    - a. The unit initiating or holding a report will release, upon request, information contained in the report, except contents of the Form 301S, Form 526, or any Form 311 investigative report.
    - b. The Department will not release information from reports involving the abuse or neglect of a child in accordance with ORC 2151.421(H)(1) and (H)(2).
  - 3. Requests for copies of all fatal, unusual, or serious injury crash reports should be referred to Traffic Section.
  - 4. Release upon request information in a Form 316, Minor Accident/Aided Case/Mental Health Reponse Report (excluding confidential health information), or Form 301, Incident Report, filed at the district of occurrence.
  - 5. In cases of death or serious injury, the police will request the media not release the identity of a deceased or seriously injured person until next of kin is notified.
- E. Use of the Voice Mailbox System (VMBS)
- 1. The following personnel will provide, via the VMBS, information concerning significant or noteworthy events, events affecting public safety, or major news stories which affect the Department:
    - a. District/section/unit commanders.
    - b. PCS supervisors.
    - c. Night Chief.
    - d. Relief commanders or designees.
    - e. Public Information Office.

2. The following information will be provided:
  - a. Name, title, and assignment of the Department representative providing the information.
  - b. Type of incident.
  - c. Date, time, location, and names (spell out the names on the phone).
  - d. A brief description of the incident or offense.
3. End the VMBS message indicating this is only preliminary information. Further information will be provided when it is available.

F. Incidents Involving Police Officers

1. Command officers, district/section commanders, or the Officer-in-Charge of an investigation has the authority to release the names of police personnel involved in an incident as soon as possible.
  - a. Before release, ensure the accuracy of the information.
  - b. Allow the officer the opportunity to notify family members before releasing the information if the report of an incident would cause them concern.
  - c. The timely release of the name of police participants in a major incident adds to the credibility of the Department and forestalls the possibility of the media adversely commenting on the incident because information was withheld.
2. Notify the Police Chief immediately upon receipt of court ordered request for pictures of Department personnel in connection with an event which will reflect unfavorably upon the individual officer or the Department.

G. Statistical Data - Criminal Reports

1. PIO will verbally provide information from Police Department administrative reports.
2. Refer requests for actual copies of Police Department administrative reports to Planning Section.



#### H. Kallstrom Process, Plain Dealer, and Dispatch Printing Company cases

##### 1. Pursuant to the following case law:

- Kallstrom v. City of Columbus, 136 F.3d 1055;
- State v. Keller, 85 Ohio St. 3d 279;
- State ex rel. Plain Dealer Publishing Co. v. Cleveland, 106 Ohio St. 3d 70;
- and State ex rel. Dispatch Printing Co. v. Johnson, 106 Ohio St. 3d 160, the Police Department is NOT permitted to release and will **NOT** release any of the following records of Department employees:
  - Home address.
  - Home telephone number.
  - Photographs.
  - Information regarding family members.
  - Beneficiaries.
  - Social security number.
  - Medical information or psychological reports.
  - Banking or account information.
  - Information obtained from driver's licenses or NCIC/LEADS/RCIC sources.

2. The district/section/unit responsible for forwarding documents containing any of the above information pursuant to a records request is responsible for reviewing and redacting any of the above information prior to sending the documents to Records Section.
3. If any record requested under the Public Records Act contains any information that, if released, may violate a person's 14<sup>th</sup> Amendment right to privacy and/or bodily integrity, Records Section will notify the focus of the request that a records request has been made.
4. If the focus of the request presents a reasonable objection based specifically on the rights afforded in the 14<sup>th</sup> Amendment, the request will be denied or the subject data will be edited from the record before release. Records Section personnel will consult with the Solicitor's Office prior to withholding such information.

#### I. Process for Notification – Court Ordered Requests Involving Department Employees' Personal Address Information

1. In the event the City of Cincinnati, including its employees, agents or officials, receives a court ordered request for release of Department employees' personal addresses the following process will be followed:
  - a. If the City receives the request, it will be forwarded to the Police Department for action.

- b. Upon receipt of a request for Department employee addresses, the Department will direct all district/section/unit commanders to notify all members. District/section/unit commanders will be provided with the specific request.
- c. District/section/unit commanders will insure each member is notified that the request has been received.
- d. District/section/unit commanders will generate check-off lists, which will include the names of all members in their command. The list will have the specific records request attached and each member will be personally advised of the request by a supervisor and the date of the notification will be noted on the check-off list. Members will be provided an opportunity to express their objection to the release of their personal address on the check-off list.
- e. The check-off notification process will allow up to three days insuring members that are on off days are notified. Members who are not notified pursuant to the procedure set forth above will be personally notified by a supervisor in their district, section, or unit. Upon completion, the district/section/unit commander will report in writing to the Police Chief that the notifications have occurred.
- f. The Fraternal Order of Police, Queen City Lodge 69, will be provided the request for release of sworn members' personal addresses at the same time the district/section/unit commanders are provided the request.
- g. Records Section will maintain records documenting the notification process. Objections to release of addresses will be forwarded to the City Solicitor and the Human Resources Department. Release of addresses by the City pursuant to a public records request will be governed by existing law.
- h. The Police Department will publish the records request in the Department's weekly Staff Notes, as an additional and redundant notification to all members.

## J. Media Access

1. Media personnel have the right to the same access at crime and incident scenes as the public and no more.
2. The incident OIC should establish a media staging area and assign an officer to coordinate the media staging area until PIO arrives. The incident OIC should then notify PCS of the location of the staging area and the name of the officer assigned to it.
  - a. The media staging area should be established outside of, but within close proximity to, the outer perimeter of an incident to satisfy both safety concerns and the media's right to cover newsworthy events.
3. Media representatives should not be staged in, or permitted access to, locations where they would be able to transmit live images of incidents such as SWAT operations involving hostages or barricaded persons.
4. Media personnel must have the approval of a district/section/unit supervisor or the Public Information Officer before entering non-public areas of a police facility. While in non-public areas of a police facility, media personnel will be accompanied by police personnel and will wear a Visitor ID Pass.
5. Refer to Procedure 12.700, Search Warrants/Consent to Search, regarding restrictions and guidelines for civilians, media, and third parties during the execution of a search warrant.